

Case 3:16-cv-01164 Document 1 Filed 06/03/16 Page 1 of 5 PageID #: 1

from the Davidson County Circuit Court, including the Summons, the Complaint, and the Affidavits of Service are attached as **Exhibit 1**.

3. Plaintiff is a resident of Nashville, Davidson County, Tennessee. Compl. ¶ 2.

4. Defendant Scottsdale is a corporation for profit with its principal place of business located in Scottsdale, Arizona. *See* Compl. ¶ 3. Scottsdale is registered as an Ohio corporation for profit. Scottsdale is a citizen of Ohio and Arizona for purposes of diversity jurisdiction analysis under 28 U.S.C. §1332. Scottsdale has attached publicly-available business filing records from the Ohio Secretary of State as **Exhibit 2**.

5. Defendant Nationwide is a nonprofit corporation located in Columbus, Ohio. *See* Compl. ¶ 3. Nationwide is registered as an Ohio nonprofit corporation. Nationwide's principal place of business is located in Ohio. Nationwide is a citizen of Ohio for purposes of diversity jurisdiction analysis under 28 U.S.C. § 1332. Nationwide has attached publicly-available business filing records from the Ohio Secretary of State as **Exhibit 3**.

6. Complete diversity of citizenship under 28 U.S.C. § 1332 exists between the parties because Plaintiff is a citizen of Tennessee, Scottsdale is a citizen of Ohio and Arizona, and Nationwide is a citizen of Ohio.

7. Plaintiff alleges that his alleged financial losses for "lost business revenues, emotional distress, bad faith, breach of contract and other expenses" total no less than \$628,500.00. Compl., Demand ¶ 2, pg. 6. Plaintiff also demands "judgment for the Defendants' bad faith refusal to pay Plaintiffs' claim, not exceeding twenty-five percent (25%) pursuant to Tenn. Code Ann. § 56-7-105." Compl., Demand ¶ 3, pg. 7. Plaintiff further demands "judgment for compensatory and treble damages for violation of Tennessee Common Law," Compl., Demand ¶ 4, pg. 7, as well as "post judgment interest and for the costs of this action[.]" Compl.,

Demand ¶ 5, pg. 7. Therefore, pursuant to 28 U.S.C. § 1332, the amount in controversy in this matter exceeds the jurisdictional minimum of \$75,000.

8. This Court has original jurisdiction of this case pursuant to 28 U.S.C. § 1332(a), as amended, because the amount in controversy exceeds the jurisdictional minimum of \$75,000, this action is between citizens of different states (Plaintiff is a citizen of Tennessee, Scottsdale is a citizen of Arizona and Ohio, and Nationwide is a citizen of Ohio), and all Defendants consent to this removal. Therefore, under 28 U.S.C. § 1441, *et. seq.*, this case is properly removable pursuant to diversity jurisdiction under 28 U.S.C. § 1332(a).

9. Venue is proper in this Court pursuant to 28 U.S.C. §§ 123(c)(2) and 1441(a), because the United States District Court for the Middle District of Tennessee, at Nashville is the federal judicial district embracing the Circuit Court of Davidson County, Tennessee, where this action was originally filed.

10. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446 because it is filed within thirty days of receipt by Defendants, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based. 28 U.S.C. § 1446(b).

11. Pursuant to 28 U.S.C. § 1446(d), Plaintiff will be served with written notice of removal, and a copy of this Notice of Removal will be filed contemporaneously with the Circuit Court for the State of Tennessee, Davidson County. A true and correct copy of the Notice of Filing of Notice of Removal is attached as **Exhibit 4.**

12. By filing this instant Notice of Removal, Defendants do not waive, and fully reserve, all defenses they may have, including but not limited to, defenses provided under the

Policy referenced in Plaintiff's Complaint, potential statute of limitations defenses, and/or Plaintiff's failure to state a claim upon which relief may be granted.

13. Based on the foregoing, Defendants respectfully request that the United States District Court for the Middle District of Tennessee accept this Notice of Removal and assume jurisdiction of this cause and issue such further order and processes as may be necessary to bring before it all parties necessary.

WHEREFORE, premises considered, Defendants Scottsdale Insurance Company and Nationwide Mutual Insurance Company hereby give notice that the above-described action now pending against them in the Circuit Court of Davidson County, Tennessee, has been removed therefrom to this Court.

Dated this 3rd Day of June, 2016.

Respectfully submitted,

BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ

/s/ Joshua A. Mullen

---

Joshua A. Mullen (BPR No. 28388)

Austin Purvis (BPR No. 32329)

Baker Donelson Center, Suite 800

211 Commerce Street

Nashville, Tennessee 37201

(615) 726-5600

[jmullen@bakerdonelson.com](mailto:jmullen@bakerdonelson.com)

*Attorneys for Defendants Scottsdale Insurance  
Company and Nationwide Mutual Insurance  
Company*

### **CERTIFICATE OF SERVICE**

I hereby certify that, on June 3, 2016, I caused a copy of the foregoing Notice of Removal to be filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Further copies were provided to the parties below via U.S. Mail, postage pre-paid.

Caesar Cirigliano, Esq.  
736 Old Hickory Blvd.  
Nashville, Tennessee 37209  
*Attorney for Plaintiff*

/s/ Joshua A. Mullen  
Attorney